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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RUBEN P. PEREZ,

Petitioner,

v.

JO GENTRY, et al.,

Respondents.

Case No. 2:16-cv-00830-RFB-GWF

**UNOPPOSED MOTION FOR
EXTENSION OF TIME IN WHICH TO
FILE OPPOSITION TO THE
RESPONDENTS' MOTION TO
DISMISS**

(First Request)

Petitioner Ruben P. Perez respectfully moves this Court for an extension of time of sixty (60) days, from February 26, 2018, to and including April 27, 2018, in which to file an opposition to the respondents' motion to dismiss.

POINTS AND AUTHORITIES

1. Mr. Perez filed a counseled amended petition for a writ of habeas corpus in this Court on February 10, 2017. ECF No. 12. The respondents filed a motion to dismiss on February 12, 2018. ECF No. 26. Mr. Perez's opposition to the motion to dismiss is due on February 26, 2018.

2. Undersigned counsel has been diligently working to prepare Mr. Perez's opposition to the respondents' motion to dismiss. However, counsel respectfully suggests that additional time is necessary in order to properly prepare the opposition.

3. The respondents' motion to dismiss argues that Mr. Perez filed his proposed federal petition almost sixteen years after the expiration of the statute of limitations for federal habeas petitions. ECF No. 26 at 5. In order to respond to that argument, undersigned counsel intends to conduct additional factual development that may require additional time.

4. Undersigned counsel previously requested that counsel for the respondents provide various records from the Nevada Department of Corrections that have potential relevance to Mr. Perez's opposition. While counsel for the respondents previously turned over some of those documents, undersigned counsel requested on February 23, 2018, that counsel for the respondents turn over additional documents with potential relevance to Mr. Perez's opposition. Counsel for the respondents agreed to do so but, on information and belief, has not yet had a reasonable opportunity to begin assembling those documents.

5. Undersigned counsel spoke with Mr. Perez at length regarding the opposition on or about February 21, 2018. Additional conversations with Mr. Perez will likely prove necessary in order to properly prepare the opposition.

6. In recent months, undersigned counsel has been assigned as lead counsel to multiple new cases in which the client has or may have time remaining on

1 the federal statute of limitations. Given the hard-and-fast nature of the Section
2 2244(d) deadline, and the ramifications of failing to file a thorough amended petition
3 within the applicable statute of limitations, undersigned counsel has been prioritizing
4 the review of those new cases in recent weeks.

5 7. Undersigned counsel has had many professional obligations in recent
6 weeks, including, among others, motions for leave to conduct discovery and for an
7 evidentiary hearing filed on January 17, 2018, in *Sawyer v. Baker*, Case No. 3:16-cv-
8 00627-MMD-WGC (D. Nev.); a motion for leave to conduct discovery filed on January
9 17, 2018, in *Howard v. Wickham*, Case No. 3:16-cv-00665-HDM-VPC (D. Nev.); an
10 opposition to a motion to dismiss filed on January 22, 2018, in *Matlean v. Williams*,
11 Case No. 3:16-cv-00233-HDM-VPC (D. Nev.); a petition for a writ of habeas corpus,
12 along with a petition for genetic marker analysis, filed on February 15, 2018, in
13 *Castillo v. Baker, et al.*, Case No. CR05-0560 (Nev. Second Judicial Dist. Ct.), and a
14 deposition conducted on February 22, 2018, along with various other obligations in
15 connection with discovery authorized by the Court, in *Slaughter v. Baker*, Case No.
16 3:16-cv-00721-RCJ-WGC (D. Nev.).

17 8. Undersigned counsel has many additional professional obligations in
18 the coming weeks, including, among others, a reply brief due on March 2, 2018, in
19 *LaPena v. Grigas*, Case No. 15-16154 (9th Cir.); an oral argument scheduled on March
20 12, 2018, in *Gutierrez v. State*, Case No. 16-15704 (9th Cir.); an amended petition
21 due on March 14, 2018, in *Patterson v. State*, Case No. 2:17-cv-02131-JCM-GWF (D.
22 Nev.); a reply in support of a petition due on March 20, 2018, in *Gonzalez v. Williams*,
23 Case No. 2:15-cv-00618-RFB-CWH (D. Nev.); an opening brief due on March 21, 2018,
24 in *Mercado v. State*, Case No. 74513 (Nev.); an opening brief due on March 30, 2018,
25 in *Banuelos v. Smith*, Case No. 17-164889 (9th Cir.); and an amended petition due on
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1 April 2, 2018, in *Guzman v. Attorney General*, Case No. 3:17-cv-00515-HDM-VPC (D.
2 Nev.).

3 9. Therefore, undersigned counsel seeks an additional sixty (60) days, up
4 to and including April 27, 2018, in which to file the opposition to the respondents'
5 motion to dismiss. This is undersigned counsel's first request for an extension of time
6 in which to file Mr. Perez's opposition.

7 10. On February 23, 2018, undersigned counsel contacted Deputy Attorney
8 General Natasha M. Gebrael and informed her of this request for an extension of
9 time. As a matter of professional courtesy, Ms. Gebrael had no objection to the
10 request. Ms. Gebrael's lack of objection should not be considered as a waiver of any
11 procedural defenses or statute of limitations challenges, or construed as agreeing
12 with the accuracy of the representations in this motion.

13 11. This motion is not filed for the purpose of delay, but in the interests of
14 justice, as well as in the interest of Mr. Perez. Counsel for Mr. Perez respectfully
15 requests that this Court grant this motion and order Mr. Perez to file the opposition
16 to the respondents' motion to dismiss no later than April 27, 2018.

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1 DATED this 26th day of February, 2018.

2 Respectfully submitted,
3 RENE L. VALLADARES
4 Federal Public Defender

5 */s/Jeremy C. Baron*
6 JEREMY C. BARON
7 Assistant Federal Public Defender

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9 IT IS SO ORDERED:



10 RICHARD F. BOULWARE, II
11 United States District Judge

12 DATED this 28th day of February, 2018.
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CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States District Court, District of Nevada by using the CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system and include: Natasha M. Gebrael.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following non-CM/ECF participants:

Ruben P. Perez
No. 61761
Southern Desert Correctional Center
PO Box 208
Indian Springs, NV 89070

/s/ *Jessica Pillsbury*
An Employee of the
Federal Public Defender